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FILED

**MICHELE REAGAN
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
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**CHAPTER 229
HOUSE BILL 2269**

AN ACT

AMENDING SECTIONS 8-386, 8-386.01, 8-387, 8-407, 8-413 AND 8-415, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 12; AMENDING SECTIONS 13-805, 13-806, 13-810, 13-4402, 13-4405, 13-4407, 13-4408, 13-4415, 13-4428, 22-116 AND 41-2407, ARIZONA REVISED STATUTES; RELATING TO VICTIMS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-386, Arizona Revised Statutes, is amended to
3 read:

4 8-386. Information provided to victim by law enforcement
5 agencies

6 A. As soon after the detection of an offense as the victim may be
7 contacted without interfering with an investigation or arrest, the law
8 enforcement agency responsible for investigating the offense shall provide
9 ELECTRONIC FORMS, PAMPHLETS, INFORMATION CARDS OR OTHER MATERIALS TO the
10 victim ~~with a multicopy form~~:

11 1. That allows the victim to request or waive applicable rights to
12 which the victim is entitled, on request, under this article.

13 2. That provides the victim a method to designate a lawful
14 representative if the victim so chooses pursuant to section 8-384,
15 subsection A or section 8-385.

16 3. That provides notice to the victim of all of the following
17 information:

18 (a) The victim's right under the victims' bill of rights, article
19 II, section 2.1, Constitution of Arizona, to be treated with fairness,
20 respect and dignity and to be free of intimidation, harassment or abuse
21 throughout the criminal or juvenile justice process.

22 (b) The availability, if any, of crisis intervention services and
23 emergency and medical services and, if applicable, that medical expenses
24 arising out of the need to secure evidence may be reimbursed pursuant to
25 section 13-1414.

26 (c) In cases involving domestic violence, the procedures and
27 resources available for the protection of the victim pursuant to section
28 13-3601.

29 (d) The names and telephone numbers of public and private victim
30 assistance programs, including the county victim compensation program and
31 programs that provide counseling, treatment and other support services.

32 (e) The police report number, if available, other identifying case
33 information and the following statement:

34 If within thirty days you are not notified of an arrest in
35 your case, you may call (the law enforcement agency's
36 telephone number) for the status of the case.

37 (f) Whether the suspect is an adult or juvenile, the victim will be
38 notified by the law enforcement agency at the earliest opportunity after
39 the arrest of a suspect.

40 (g) If the suspect is a juvenile and the officer requests that the
41 accused be detained, a statement of the victim's right, on request, to be
42 informed if the juvenile will be released or will be detained pending the
43 detention hearing and of the victim's right to be present and heard at the
44 detention hearing and that, to exercise these rights, the victim must

1 contact the detention screening section of the juvenile probation
2 department immediately to request notice of all of the following:

3 (i) The juvenile's release.

4 (ii) The date, time and place of the detention hearing and any
5 changes to that schedule.

6 (iii) If the victim chooses to exercise the right to be heard
7 through a written statement, how that statement may be submitted to the
8 court.

9 (h) That the victim or the immediate family member of the victim,
10 if the victim is killed or incapacitated, has the right to receive one
11 copy of the police report, including any supplements to the report, from
12 the investigating law enforcement agency at no charge pursuant to section
13 39-127.

14 B. If at the time of contact with a law enforcement agency the
15 victim is physically or emotionally unable to request or waive applicable
16 rights, the law enforcement agency shall designate this ~~on the multicopy~~
17 ~~form~~ IN A FORMAT THAT IS AUTHORIZED BY SUBSECTION A OF THIS SECTION and
18 the entities that may be subsequently affected shall presume that the
19 victim invoked the victim's right to request applicable rights to which
20 the victim is entitled, on request, unless the victim later waives those
21 rights.

22 C. The law enforcement agency shall submit one copy of the victim's
23 request or waiver of predisposition rights form to the detention center,
24 if the arresting officer is requesting that the accused be detained, at
25 the time the juvenile is taken to detention. If detention is not
26 requested, the form copies shall be submitted to the juvenile probation
27 intake section at the time the case is otherwise referred to court. The
28 probation intake section shall submit a copy of the victim's request or
29 waiver of predisposition rights form to the prosecutor and the departments
30 or governmental agencies, as applicable, that are mandated by this article
31 to provide victims' rights services on request.

32 D. If the accused juvenile is cited and released by an Arizona
33 traffic ticket and complaint form pursuant to section 8-323, the law
34 enforcement agency shall inform the victim how to obtain additional
35 information about subsequent proceedings.

36 E. Law enforcement agencies within a county may establish different
37 procedures designed to efficiently and effectively provide notice of the
38 victim's rights pursuant to this article and notice to affected entities
39 of victim request or waiver information. If different procedures are
40 established, the procedures shall:

41 1. Be reported to the entities within a county affected by the
42 procedures and reported to the attorney general.

43 2. Be designed so that detention centers within a county receive
44 notice of the victim's request or waiver of the victim's predisposition
45 rights at the same time that an accused juvenile is detained.

1 3. Be designed so that the juvenile probation intake section of the
2 county receives notice of the victim's request or waiver of the victim's
3 predisposition rights at the same time that the case is referred to court.

4 4. Provide that the notice to affected entities of a victim's
5 request or waiver of the victim's predisposition rights includes
6 information that allows the affected entity to contact the victim.

7 5. Be supported by the use of ELECTRONIC FORMS, brochures, ~~forms~~ or
8 other written materials developed by the law enforcement agencies within a
9 county and reviewed by the attorney general pursuant to section 8-398,
10 subsection B.

11 Sec. 2. Section 8-386.01, Arizona Revised Statutes, is amended to
12 read:

13 8-386.01. Issuance and execution of arrest warrants

14 A. ~~Beginning on the effective date of this section,~~ On the issuance
15 of an arrest warrant, the court issuing the warrant shall state in the
16 warrant whether the person named in the warrant is to be arrested for or
17 is to be charged with committing an offense to which this article applies
18 or THAT is materially related to an offense to which this article applies.

19 B. On receipt of notice of an arrest or an impending arrest of a
20 juvenile and if applicable pursuant to subsection A of this section, the
21 agency that is responsible for holding the original warrant shall notify
22 the law enforcement agency that was responsible for the original
23 investigation of the offense of the impending detainment of the juvenile
24 who is arrested on the law enforcement agency's warrant.

25 C. On receiving notice that the warrant was executed pursuant to
26 subsection B of this section, the law enforcement agency that was
27 responsible for the original investigation of the offense shall do all of
28 the following if the victim has requested notice pursuant to section ~~8-286~~
29 8-386:

30 1. Notify the victim of the arrest and advise the victim that to
31 exercise the right to be informed if the juvenile is released the victim
32 must contact the detention center of the juvenile probation department
33 immediately.

34 2. Inform the victim of the telephone number of the detention
35 center in which the juvenile is detained.

36 3. Provide the detention center with the victim information
37 pursuant to section ~~8-286~~ 8-386 so that the detention center may notify
38 the victim of the release or escape of the juvenile pursuant to section
39 ~~8-290.03~~ 8-393, if applicable.

40 D. A law enforcement agency is not required to provide victim
41 information pursuant to section ~~8-286~~ 8-386, subsections C and E to the
42 custodial agency at the time a juvenile is detained unless the law
43 enforcement agency that performs the warrant arrest is also the law
44 enforcement agency that was responsible for the original investigation of
45 the offense.

1 E. The victim's right to be informed of an arrest or a release
2 pursuant to an executed warrant applies to warrants that are issued on or
3 after September 1, 1996.

4 F. Law enforcement, courts and juvenile custodial agencies are not
5 liable pursuant to section ~~8-290.26~~ 8-393 for the failure to inform a
6 victim of the arrest or release of a juvenile on warrants that were issued
7 before September 1, 1996.

8 Sec. 3. Section 8-387, Arizona Revised Statutes, is amended to
9 read:

10 8-387. Notice of terms and conditions of release

11 On the request of the victim, the juvenile court or the department
12 of juvenile corrections shall provide a copy of the terms and conditions
13 of release. THE COPY OF THE TERMS AND CONDITIONS OF RELEASE MAY BE
14 PROVIDED TO THE VICTIM IN AN ELECTRONIC FORM, PAMPHLET, INFORMATION CARD
15 OR OTHER MATERIAL.

16 Sec. 4. Section 8-407, Arizona Revised Statutes, is amended to
17 read:

18 8-407. Victim's discretion; form of statement

19 A. The victim has discretion to exercise the victim's rights under
20 this article to be present and be heard at a court proceeding, and the
21 absence of the victim at the court proceeding does not preclude the court
22 from continuing the proceeding.

23 B. Except as provided in subsection C OF THIS SECTION, a victim's
24 right to be heard may be exercised through an oral statement, submission
25 of a written statement or submission of a statement through audiotape or
26 videotape OR ANY OTHER VIDEO OR DIGITAL MEDIA THAT IS AVAILABLE TO THE
27 COURT.

28 C. If a person against whom a delinquent act has been committed is
29 in custody for an offense, the person may be heard by submitting a written
30 statement to the court.

31 Sec. 5. Section 8-413, Arizona Revised Statutes, is amended to
32 read:

33 8-413. Victim's right to privacy; exception; definitions

34 A. The victim has the right at any court proceeding not to testify
35 regarding any identifying or locating information unless the victim
36 consents or the court orders disclosure on finding that a compelling need
37 for the information exists. A court proceeding on the motion shall be in
38 camera.

39 B. A victim's identifying and locating information that is
40 obtained, compiled or reported by a law enforcement agency or prosecution
41 agency shall be redacted by the originating agency and prosecution
42 agencies from records pertaining to the criminal case involving the
43 victim, including discovery disclosed to the defendant.

1 C. Subsection B of this section does not apply to:

2 1. The victim's name EXCEPT, IF THE VICTIM IS A MINOR, THE VICTIM'S
3 NAME MAY BE REDACTED FROM PUBLIC RECORDS PERTAINING TO THE CRIME IF THE
4 COUNTERVAILING INTERESTS OF CONFIDENTIALITY, PRIVACY, THE RIGHTS OF THE
5 MINOR OR THE BEST INTERESTS OF THIS STATE OUTWEIGH THE PUBLIC INTEREST IN
6 DISCLOSURE.

7 2. Any records that are transmitted between law enforcement and
8 prosecution agencies or a court.

9 3. Any records if the victim OR, IF THE VICTIM IS A MINOR, THE
10 VICTIM'S REPRESENTATIVE AS DESIGNATED UNDER SECTION 8-384 OR 13-4403 has
11 consented to the release of the information.

12 4. The general location at which the reported crime occurred.

13 D. For the purposes of this section:

14 1. "Identifying information" includes a victim's date of birth,
15 social security number and official state or government issued driver
16 license or identification number.

17 2. "Locating information" includes the victim's address, telephone
18 number, e-mail address and place of employment.

19 Sec. 6. Section 8-415, Arizona Revised Statutes, is amended to
20 read:

21 8-415. Effect of failure to comply

22 A. The failure to comply with a victim's constitutional or
23 statutory right is a ground for the victim to request a reexamination
24 proceeding within ten days after the proceeding at which the victim's
25 right was denied or with leave of the court for good cause shown. After
26 the victim requests a reexamination proceeding and after the court gives
27 reasonable notice, the court shall afford the victim a reexamination
28 proceeding to consider the issues raised by the denial of the victim's
29 right. Except as provided in subsection B of this section, the court
30 shall reconsider any decision that arises from a proceeding in which the
31 victim's right was not protected and shall ensure that the victim's rights
32 are thereafter protected.

33 B. The failure to use reasonable efforts to perform a duty or
34 provide a right is not cause to seek to set aside an adjudication or
35 disposition after trial. Failure to afford a right under this chapter
36 shall not provide grounds for a new trial. A victim who was given notice
37 of a plea or sentencing proceeding may make a motion to reopen a plea or
38 sentence only if the victim was not voluntarily absent from the proceeding
39 and has asserted the right to be heard before or during the proceeding at
40 issue and the right to be heard was denied and, in the case of a plea, the
41 accused has not pled to the highest offense charged. This subsection does
42 not affect the victim's right to restitution, which the victim may seek to
43 enforce at any time.

1 C. Unless the juvenile is discharged from the juvenile's sentence,
2 the failure to use reasonable efforts to provide notice and a right to be
3 present or be heard pursuant to this chapter at a proceeding that involves
4 a ~~postconviction~~ POSTADJUDICATION release is a ground for the victim to
5 seek to set aside the ~~postconviction~~ POSTADJUDICATION release until the
6 victim is afforded the opportunity to be present or be heard.

7 D. If the victim seeks to have a ~~postconviction~~ POSTADJUDICATION
8 release set aside pursuant to subsection C of this section, the court or
9 department of juvenile corrections shall afford the victim a reexamination
10 proceeding after the parties are given notice.

11 E. A reexamination proceeding conducted pursuant to this section or
12 any other proceeding that is based on the failure to perform a duty or
13 provide a right shall commence not more than thirty days after the
14 appropriate parties have been given notice that the victim is exercising
15 the right to a reexamination proceeding pursuant to this section or to
16 another proceeding based on the failure to perform a duty or provide a
17 right.

18 Sec. 7. Title 12, chapter 9, Arizona Revised Statutes, is amended
19 by adding article 12, to read:

20 ARTICLE 12. MONETARY JUDGMENT AWARDS TO PRISONERS

21 12-1721. Monetary judgment awarded to prisoners; outstanding
22 restitution and incarceration costs

23 A. IN ANY CIVIL ACTION, A MONETARY JUDGMENT MAY NOT BE PAID TO A
24 PERSON WHO IS OR WAS PREVIOUSLY INCARCERATED IN THE STATE DEPARTMENT OF
25 CORRECTIONS BEFORE ALL RESTITUTION AND INCARCERATION COSTS OWED BY THE
26 PERSON ARE PAID IF THE MONETARY JUDGMENT IS AGAINST THIS STATE, A
27 POLITICAL SUBDIVISION OF THIS STATE, ANY PRISON, JAIL OR CORRECTIONAL
28 FACILITY OR ANY OFFICER OR AGENT OF A PRISON, JAIL OR CORRECTIONAL
29 FACILITY. IF THE MONETARY JUDGMENT IS NOT SUFFICIENT TO PAY BOTH
30 RESTITUTION AND INCARCERATION COSTS THAT ARE OWED, THE MONETARY JUDGMENT
31 MUST FIRST BE USED TO PAY ANY OUTSTANDING RESTITUTION AND A PORTION OF ANY
32 REMAINING BALANCE MAY BE SET OFF AND USED TO PAY OUTSTANDING INCARCERATION
33 COSTS PURSUANT TO SECTION 31-238.

34 B. IF THE VICTIM WAS ORDERED BY THE COURT TO RECEIVE RESTITUTION
35 THROUGH THE CLERK OF THE SUPERIOR COURT, THIS STATE, THE POLITICAL
36 SUBDIVISION OF THIS STATE OR THE PRISON, JAIL OR CORRECTIONAL FACILITY
37 THAT WAS ORDERED TO SATISFY THE MONETARY JUDGMENT SHALL TRANSFER ENOUGH OF
38 THE MONETARY JUDGMENT TO PAY THE REMAINING BALANCE OF THE RESTITUTION
39 ORDER TO THE CLERK OF THE SUPERIOR COURT FOR DISTRIBUTION TO THE VICTIM.

40 C. IF MONEY IS TRANSFERRED TO A CLERK OF THE SUPERIOR COURT
41 PURSUANT TO SUBSECTION B OF THIS SECTION, THIS STATE, THE POLITICAL
42 SUBDIVISION OF THIS STATE OR THE PRISON, JAIL OR CORRECTIONAL FACILITY
43 MUST ALSO PROVIDE THE CLERK WITH THE FOLLOWING INFORMATION AT THE TIME OF
44 THE TRANSFER:

45 1. A COPY OF THE MONETARY JUDGMENT.

1 2. THE DEFENDANT'S NAME AND THE CASE NUMBER OF EACH CASE WHERE
2 RESTITUTION IS OWED.

3 3. THE NAME AND ADDRESS OF THE TRANSFERRING ENTITY.

4 Sec. 8. Section 13-805, Arizona Revised Statutes, is amended to
5 read:

6 13-805. Jurisdiction

7 A. The trial court shall retain jurisdiction of the case AS
8 FOLLOWS:

9 1. SUBJECT TO PARAGRAPH 2 OF THIS SUBSECTION, for purposes of
10 ordering, modifying and enforcing the manner in which court-ordered
11 payments are made until paid in full or until the defendant's sentence
12 expires.

13 2. FOR ALL RESTITUTION ORDERS IN FAVOR OF A VICTIM, INCLUDING LIENS
14 AND CRIMINAL RESTITUTION ORDERS, FOR PURPOSES OF ORDERING, MODIFYING AND
15 ENFORCING THE MANNER IN WHICH PAYMENTS ARE MADE UNTIL PAID IN FULL.

16 B. At the time the defendant is ordered to pay restitution by the
17 court, the court may enter a criminal restitution order in favor of each
18 person who is entitled to restitution for the unpaid balance of any
19 restitution order. A criminal restitution order does not affect any other
20 monetary obligation imposed on the defendant pursuant to law.

21 C. At the time the defendant completes the defendant's period of
22 probation or the defendant's sentence or the defendant absconds from
23 probation or the defendant's sentence, the court shall enter both:

24 1. A criminal restitution order in favor of the state for the
25 unpaid balance, if any, of any fines, costs, incarceration costs, fees,
26 surcharges or assessments imposed.

27 2. A criminal restitution order in favor of each person entitled to
28 restitution for the unpaid balance of any restitution ordered, if a
29 criminal restitution order is not issued pursuant to subsection B of this
30 section.

31 D. The clerk of the court shall notify each person who is entitled
32 to restitution of the criminal restitution order.

33 E. A criminal restitution order may be recorded and is enforceable
34 as any civil judgment, except that a criminal restitution order does not
35 require renewal pursuant to section 12-1611 or 12-1612. Enforcement of a
36 criminal restitution order by any person who is entitled to restitution or
37 by the state includes the collection of interest that accrues at a rate of
38 ten percent per annum. A criminal restitution order does not expire until
39 paid in full. A FILING FEE, RECORDING FEE OR ANY OTHER CHARGE IS NOT
40 REQUIRED FOR RECORDING A CRIMINAL RESTITUTION ORDER.

41 F. All monies paid pursuant to a criminal restitution order entered
42 by the ~~superior~~ court shall be paid to the clerk of the ~~superior~~ court.

43 G. Monies received as a result of a criminal restitution order
44 entered pursuant to this section shall be distributed in the following
45 order of priority:

1 1. Restitution ordered that is reduced to a criminal restitution
2 order.

3 2. Associated interest.

4 H. The interest accrued pursuant to subsection E of this section
5 does not apply to fees imposed for collection of the court ordered
6 payments.

7 I. A criminal restitution order is a criminal penalty for the
8 purposes of a federal bankruptcy involving the defendant.

9 Sec. 9. Section 13-806, Arizona Revised Statutes, is amended to
10 read:

11 13-806. Restitution lien

12 A. The state or any person entitled to restitution pursuant to a
13 court order may file in accordance with this section a restitution
14 lien. A filing fee, RECORDING FEE or any other charge is not required for
15 filing a restitution lien.

16 B. A restitution lien shall be signed by the attorney representing
17 the state in the criminal action or by a magistrate and shall set forth
18 all of the following information:

19 1. The name and date of birth of the defendant whose property or
20 other interests are subject to the lien.

21 2. The present residence or principal place of business of the
22 person named in the lien, if known.

23 3. The criminal proceeding pursuant to which the lien is filed,
24 including the name of the court, the title of the action and the court's
25 file number.

26 4. The name and address of the attorney representing the state in
27 the proceeding pursuant to which the lien is filed or the name and address
28 of the person entitled to restitution pursuant to a court order filing the
29 lien.

30 5. A statement that the notice is being filed pursuant to this
31 section.

32 6. The amount of restitution the defendant in the proceeding has
33 been ordered to pay or an estimated amount of economic loss caused by the
34 offense alleged in the proceeding if no restitution order has been entered
35 yet.

36 7. A statement that the total amount of restitution owed will
37 change and that the clerk of the court in which the proceeding was or is
38 pending shall maintain a record of the outstanding balance.

39 ~~C. A restitution lien may be filed by:~~

40 ~~1. A prosecutor in a criminal proceeding in which there was an~~
41 ~~economic loss after the filing of a misdemeanor complaint or felony~~
42 ~~information or indictment. At the time of arraignment the prosecutor~~
43 ~~shall give the defendant notice of any restitution lien filed.~~

1 ~~2. A victim in a criminal proceeding after restitution is~~
2 ~~determined and ordered by the trial court following pronouncement of the~~
3 ~~judgment and sentence.~~

4 C. A PROSECUTOR OR A VICTIM IN A CRIMINAL PROCEEDING IN WHICH THERE
5 WAS AN ECONOMIC LOSS MAY FILE A REQUEST WITH THE COURT FOR A PRECONVICTION
6 RESTITUTION LIEN AFTER THE FILING OF A MISDEMEANOR COMPLAINT OR FELONY
7 INFORMATION OR INDICTMENT.

8 D. A VICTIM IN A CRIMINAL PROCEEDING MAY FILE A RESTITUTION LIEN
9 AFTER RESTITUTION IS DETERMINED AND ORDERED BY THE TRIAL COURT FOLLOWING
10 PRONOUNCEMENT OF THE JUDGMENT AND SENTENCE.

11 ~~D.~~ E. A restitution lien is perfected against interests in
12 personal property by filing the lien with the secretary of state, except
13 that in the case of titled motor vehicles it shall be filed with the
14 department of transportation motor vehicle division. A restitution lien
15 is perfected against interests in real property by filing the lien with
16 the county recorder of the county in which the real property is
17 located. The state or a victim may give the additional notice of the lien
18 as either deems appropriate.

19 ~~E.~~ F. The filing of a restitution lien in accordance with this
20 section creates a lien in favor of the state or the victim in all of the
21 following:

22 1. Any interest of the defendant in real property situated in the
23 county in which the lien is filed then maintained or thereafter acquired
24 in the name of the defendant identified in the lien.

25 2. Any interest of the defendant in personal property situated in
26 this state then maintained or thereafter acquired in the name of the
27 defendant identified in the lien.

28 3. Any property identified in the lien to the extent of the
29 defendant's interest in the property.

30 ~~F.~~ G. The filing of a restitution lien under this section is
31 notice to all persons dealing with the person or property identified in
32 the lien of the state's or victim's claim. The lien created in favor of
33 the state or the victim in accordance with this section is superior and
34 prior to the claims or interests of any other person, except a person
35 possessing any of the following:

36 1. A valid lien perfected before the filing of the restitution
37 lien.

38 2. In the case of real property, an interest acquired and recorded
39 before the filing of the restitution lien.

40 3. In the case of personal property, an interest acquired before
41 the filing of the restitution lien.

42 ~~G.~~ H. This section does not limit the right of the state or any
43 other person entitled to restitution to obtain any order or injunction,
44 receivership, writ, attachment, garnishment or other remedy authorized by
45 law.

1 ~~H.~~ I. Following the entry of the judgment and sentence in the
2 criminal case, if the trial court sentences the defendant to pay a fine or
3 awards costs of investigation or prosecution, the state may file a
4 restitution lien pursuant to this section for the amount of the fine or
5 costs, except that a lien may not be perfected against a titled motor
6 vehicle.

7 ~~I.~~ J. A criminal restitution lien is a criminal penalty for the
8 purposes of any federal bankruptcy involving the defendant.

9 K. THE COURT SHALL ORDER THE RELEASE OF ANY PRECONVICTION
10 RESTITUTION LIEN THAT HAS BEEN FILED OR PERFECTED IF THE DEFENDANT IS
11 ACQUITTED OR THE STATE DOES NOT PROCEED WITH THE PROSECUTION.

12 ~~J.~~ L. A self-service storage facility that forecloses its lien
13 pursuant to section 33-1704 may sell personal property that is subject to
14 a restitution lien. The proceeds from the sale, less the reasonable costs
15 of sale, shall be paid to the restitution lienholder to satisfy the
16 restitution lien as prescribed in section 33-1704. A person who is a good
17 faith purchaser pursuant to section 33-1704 and who purchases personal
18 property that is subject to a restitution lien takes the property free and
19 clear of the rights of the restitution lienholder.

20 Sec. 10. Section 13-810, Arizona Revised Statutes, is amended to
21 read:

22 13-810. Consequences of nonpayment of fines, fees,
23 restitution or incarceration costs

24 A. In addition to any other remedy provided by law, including a
25 writ of execution or other civil enforcement, if a defendant who is
26 sentenced to pay a fine, a fee or incarceration costs defaults in the
27 payment of the fine, fee or incarceration costs or of any installment as
28 ordered, the clerk of the court imposing the fine, fee or incarceration
29 costs shall notify the prosecutor and the sentencing court. The court, on
30 motion of the prosecuting attorney or on its own motion, shall require the
31 defendant to show cause why the defendant's default should not be treated
32 as contempt and may issue a summons or a warrant of arrest for the
33 defendant's appearance.

34 B. In addition to any other remedy provided by law, including a
35 writ of execution or other civil enforcement, if a defendant who is
36 ordered to pay restitution defaults in the payment of the restitution or
37 of any installment as ordered, the clerk of the court that imposed the
38 restitution shall notify the prosecutor and the sentencing court on a
39 monthly basis. The court, on motion of the prosecuting attorney, on
40 petition of any person entitled to restitution pursuant to a court order
41 or on its own motion, shall require the defendant to show cause why the
42 defendant's default should not be treated as contempt and may issue a
43 summons or a warrant of arrest for the defendant's appearance.

44 C. IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, INCLUDING A
45 WRIT OF EXECUTION OR OTHER CIVIL ENFORCEMENT, THE COURT, ON RECEIPT OF A

1 PETITION AND ISSUANCE OF AN ORDER TO SHOW CAUSE, HAS JURISDICTION TO
2 PRESERVE RIGHTS OVER ALL RESTITUTION LIENS ENTERED PURSUANT TO SECTION
3 13-806, SUBSECTION B, AND PERFECTED PURSUANT TO SECTION 13-806,
4 SUBSECTION E.

5 ~~E.~~ D. At any hearing on the order to show cause the court, the
6 prosecuting attorney or a person entitled to restitution may examine the
7 defendant under oath concerning the defendant's financial condition,
8 employment and assets or on any other matter relating to the defendant's
9 ability to pay restitution.

10 ~~D.~~ E. If the court finds that the defendant has wilfully failed to
11 pay a fine, a fee, restitution or incarceration costs or finds that the
12 defendant has intentionally refused to make a good faith effort to obtain
13 the monies required for the payment, the court shall find that the default
14 constitutes contempt and may do one of the following:

15 1. Order the defendant incarcerated in the county jail until the
16 fine, fee, restitution or incarceration costs, or a specified part of the
17 fine, fee, restitution or incarceration costs, is paid.

18 2. Revoke the defendant's probation, parole or community
19 supervision and sentence the defendant to prison pursuant to law.

20 3. Enter an order pursuant to section 13-812. The levy or
21 execution for the collection of a fine, a fee, restitution or
22 incarceration costs does not discharge a defendant who is incarcerated for
23 nonpayment of the fine, fee, restitution or incarceration costs until the
24 amount of the fine, fee, restitution or incarceration costs is collected.

25 4. Order the defendant to perform community restitution.

26 ~~E.~~ F. If the court finds that the default is not wilful and that
27 the defendant cannot pay despite sufficient good faith efforts to obtain
28 the monies, the court may take any lawful action including:

29 1. Modify the manner in which the restitution, fine, fee or
30 incarceration costs are to be paid.

31 2. Enter any reasonable order that would assure compliance with the
32 order to pay.

33 3. Enter an order pursuant to section 13-812. The levy or
34 execution for the collection of a fine, a fee, restitution or
35 incarceration costs does not discharge a defendant incarcerated for
36 nonpayment of the fine, fee, restitution or incarceration costs until the
37 amount of the fine, fee, restitution or incarceration costs is collected.

38 ~~F.~~ G. If a fine, a fee, restitution or incarceration costs are
39 imposed on an enterprise it is the duty of the person or persons
40 authorized to make disbursement from the assets of the enterprise to pay
41 them from those assets, and their failure to do so shall be held a
42 contempt unless they make the showing required in subsection A or B of
43 this section.

1 Sec. 11. Section 13-4402, Arizona Revised Statutes, is amended to
2 read:

3 13-4402. Implementation of rights and duties

4 A. Except as provided in sections 13-4404 and 13-4405, the rights
5 and duties that are established by this chapter arise on the arrest or
6 formal charging of the person or persons who are alleged to be responsible
7 for a criminal offense against a victim. The rights and duties continue
8 to be enforceable pursuant to this chapter until the final disposition of
9 the charges, including acquittal or dismissal of the charges, all
10 post-conviction release and relief proceedings and the discharge of all
11 criminal proceedings relating to restitution. If a defendant is ordered
12 to pay restitution to a victim, the rights and duties continue to be
13 enforceable BY THE COURT until restitution is paid ~~or a criminal~~
14 ~~restitution order is entered in favor of the victim pursuant to section~~
15 ~~13-805.~~

16 B. If a defendant's conviction is reversed and the case is returned
17 to the trial court for further proceedings, the victim has the same rights
18 that were applicable to the criminal proceedings that led to the appeal or
19 other post-conviction relief proceeding.

20 C. After the final termination of a criminal prosecution by
21 dismissal with prejudice or acquittal, a person who has received notice
22 and the right to be present and heard pursuant to the victims' rights act,
23 article II, section 2.1, Constitution of Arizona, any implementing
24 legislation or court rule is no longer entitled to such rights.

25 Sec. 12. Section 13-4405, Arizona Revised Statutes, is amended to
26 read:

27 13-4405. Information provided to victim by law enforcement
28 agencies

29 A. As soon after the detection of a criminal offense as the victim
30 may be contacted without interfering with an investigation or arrest, the
31 law enforcement agency that has responsibility for investigating the
32 criminal offense shall provide ELECTRONIC FORMS, PAMPHLETS, INFORMATION
33 CARDS OR OTHER MATERIALS TO the victim ~~with a multicopy form:~~

34 1. That allows the victim to request or waive applicable rights to
35 which the victim is entitled, on request, under this article.

36 2. That provides the victim a method to designate a lawful
37 representative if the victim chooses pursuant to section 13-4403,
38 subsection A or section 13-4404.

39 3. That provides notice to the victim of all of the following
40 information:

41 (a) The victim's right under the victims' bill of rights, article
42 II, section 2.1, Constitution of Arizona, to be treated with fairness,
43 respect and dignity and to be free of intimidation, harassment or abuse
44 throughout the criminal or juvenile justice process.

1 (b) The availability, if any, of crisis intervention services and
2 emergency and medical services and, where applicable, that medical
3 expenses arising out of the need to secure evidence may be reimbursed
4 pursuant to section 13-1414.

5 (c) In cases of domestic violence, the procedures and resources
6 available for the protection of the victim pursuant to section 13-3601.

7 (d) The names and telephone numbers of public and private victim
8 assistance programs, including the county victim compensation program and
9 programs that provide counseling, treatment and other support services.

10 (e) The police report number, if available, other identifying case
11 information and the following statement:

12 If within thirty days you are not notified of an arrest in
13 your case, you may call (the law enforcement agency's
14 telephone number) for the status of the case.

15 (f) Whether the suspect is an adult or juvenile, a statement that
16 the victim will be notified by the law enforcement agency at the earliest
17 opportunity after the arrest of a suspect.

18 (g) If the suspect is an adult and has been arrested, the victim's
19 right, on request, to be informed of the suspect's release, of the next
20 regularly scheduled time, place and date for initial appearances in the
21 jurisdiction and of the victim's right to be heard at the initial
22 appearance and that, to exercise these rights, the victim is advised to
23 contact the custodial agency regarding the suspect's release and to
24 contact the court regarding any changes to the initial appearance
25 schedule.

26 (h) If the victim chooses to exercise the right to be heard through
27 a written statement, how that statement may be submitted to the court.

28 (i) That the victim or the immediate family member of the victim,
29 if the victim is killed or incapacitated, has the right to receive one
30 copy of the police report, including any supplements to the report, from
31 the investigating law enforcement agency at no charge pursuant to section
32 39-127.

33 B. If at the time of contact with a law enforcement agency the
34 victim is physically or emotionally unable to request or waive applicable
35 rights, the law enforcement agency shall designate this ~~on the multicopy~~
36 ~~form~~ IN THE FORMAT THAT IS AUTHORIZED BY SUBSECTION A OF THIS SECTION and
37 the entities that may be subsequently affected shall presume that the
38 victim invoked the victim's right to request applicable rights to which
39 the victim is entitled, on request, unless the victim later waives those
40 rights.

41 C. The law enforcement agency shall submit a copy of the victim's
42 request or waiver of preconviction rights form to the custodial agency and
43 a copy to the prosecutor if a suspect is arrested, at the time the suspect
44 is taken into custody. If there is no arrest, the form copies shall be
45 submitted to the prosecutor at the time the case is otherwise presented to

1 the prosecutor for review. The prosecutor shall submit a copy of the
2 victim's request or waiver of preconviction rights form to the departments
3 or sections of the prosecutor's office, if applicable, that are mandated
4 by this article to provide victims' rights services on request.

5 D. If the suspected offender is cited and released, the law
6 enforcement agency responsible for investigating the offense shall inform
7 the victim of the court date and how to obtain additional information
8 about the subsequent criminal proceedings.

9 E. Law enforcement agencies within a county may establish different
10 procedures designed to efficiently and effectively provide notice of the
11 victim's rights pursuant to this section and notice to affected entities
12 of the victim request or waiver information. If different procedures are
13 established, the procedures shall:

14 1. Be reported to the entities within a county affected by the
15 procedures and reported to the attorney general.

16 2. Be designed so that custodial agencies and prosecutors within a
17 county receive notice of the victim's request or waiver of the victim's
18 preconviction rights at the same time that an adult suspect is arrested.

19 3. Be designed so that prosecutors within a county receive notice
20 of the victim's request or waiver of the victim's preconviction rights, if
21 there is no arrest, at the same time that the case is otherwise presented
22 to the prosecutor for review.

23 4. Provide that the notice to affected entities of a victim's
24 request or waiver of the victim's preconviction rights includes
25 information that affords the affected entity the ability to contact the
26 victim.

27 5. Be supported by use of ELECTRONIC FORMS, brochures, ~~forms~~ or
28 other written materials that are developed by the law enforcement agencies
29 within a county and reviewed by the attorney general pursuant to section
30 13-4417, subsection B.

31 F. If a suspect has not been arrested at the time of contact with
32 the victim pursuant to subsection A of this section, the law enforcement
33 agency that is responsible for investigating the offense shall notify the
34 victim of the arrest of a suspect at the earliest opportunity after the
35 arrest and of the time, place and date for the initial appearance.

36 Sec. 13. Section 13-4407, Arizona Revised Statutes, is amended to
37 read:

38 13-4407. Notice of terms and conditions of release

39 ~~upon~~ ON the request of the victim, the custodial agency shall
40 provide a copy of the terms and conditions of release to the victim unless
41 the accused appeared in response to a summons. In that case, ~~upon~~ ON
42 request of the victim, the prosecutor's office ~~shall~~, on receiving such
43 information, SHALL provide a copy of the terms and conditions of release
44 to the victim. THE COPY OF THE TERMS AND CONDITIONS OF RELEASE MAY BE

1 PROVIDED TO THE VICTIM IN AN ELECTRONIC FORM, PAMPHLET, INFORMATION CARD
2 OR OTHER MATERIAL.

3 Sec. 14. Section 13-4408, Arizona Revised Statutes, is amended to
4 read:

5 13-4408. Pretrial notice

6 A. Within seven days after the prosecutor charges a criminal
7 offense by complaint, information or indictment and the accused is in
8 custody or has been served a summons, the prosecutor's office shall give
9 the victim notice of the following:

10 1. The victim's rights under the victims' bill of rights, article
11 II, section 2.1, Constitution of Arizona, any implementing legislation and
12 court rule.

13 2. The charge or charges against the defendant and a clear and
14 concise statement of the procedural steps involved in a criminal
15 prosecution.

16 3. The procedures a victim shall follow to invoke his right to
17 confer with the prosecuting attorney pursuant to section 13-4419.

18 4. The person within the prosecutor's office to contact for more
19 information.

20 5. THE VICTIM'S RIGHT TO REQUEST A PRECONVICTION RESTITUTION LIEN
21 PURSUANT TO SECTION 13-806.

22 B. Notwithstanding the provisions of subsection A of this section,
23 if a prosecutor declines to proceed with a prosecution after the final
24 submission of a case by a law enforcement agency at the end of an
25 investigation, the prosecutor shall, before the decision not to proceed is
26 final, notify the victim and provide the victim with the reasons for
27 declining to proceed with the case. The notice shall inform the victim of
28 his right on request to confer with the prosecutor before the decision not
29 to proceed is final. Such notice applies only to violations of a state
30 criminal statute.

31 Sec. 15. Section 13-4415, Arizona Revised Statutes, is amended to
32 read:

33 13-4415. Notice of probation modification, termination or
34 revocation disposition matters; notice of arrest

35 A. On request of a victim who has provided an address or other
36 contact information, the court shall notify the victim of any of the
37 following:

38 1. A probation revocation disposition proceeding or any proceeding
39 in which the court is asked to terminate the probation or intensive
40 probation of a person who is convicted of committing a criminal offense
41 against the victim.

42 2. Any hearing on a proposed modification of the terms of probation
43 or intensive probation.

1 3. The arrest of a person who is on supervised probation and who is
2 arrested pursuant to a warrant issued for a probation violation.

3 B. On request of a victim who has provided a current address or
4 other current contact information, the probation department shall notify
5 the victim of the following:

6 1. Any proposed modification to any term of probation if the
7 modification affects restitution or incarceration status or the
8 defendant's contact with or the safety of the victim.

9 2. The victim's right to be heard at a hearing that is set to
10 consider any modification to be made to any term of probation.

11 3. Any violation of any term of probation that results in the
12 filing with the court of a petition to revoke probation.

13 4. That a petition to revoke probation alleging that the defendant
14 absconded from probation has been filed with the court.

15 5. Any conduct by the defendant that raises a substantial concern
16 for the victim's safety.

17 C. IF A VICTIM HAS REQUESTED POSTCONVICTION NOTICE, THE COURT SHALL
18 PROVIDE NOTICE OF THAT REQUEST TO THE STATE DEPARTMENT OF CORRECTIONS AND
19 THE BOARD OF EXECUTIVE CLEMENCY IF A DEFENDANT'S PROBATION IS REVOKED AND
20 THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF
21 CORRECTIONS.

22 D. ON THE REQUEST OF A VICTIM, THE STATE DEPARTMENT OF CORRECTIONS
23 SHALL PROVIDE THE VICTIM WITH THE NOTICES THAT ARE REQUIRED BY SECTIONS
24 13-4412 AND 13-4413.

25 E. ON THE REQUEST OF THE VICTIM, THE BOARD OF EXECUTIVE CLEMENCY
26 SHALL PROVIDE THE VICTIM WITH THE NOTICE THAT IS REQUIRED BY SECTION
27 13-4414.

28 Sec. 16. Section 13-4428, Arizona Revised Statutes, is amended to
29 read:

30 13-4428. Victim's discretion; form of statement

31 A. It is at the victim's discretion to exercise ~~his~~ THE VICTIM'S
32 rights under this chapter to be present and heard at a court proceeding,
33 and the absence of the victim at the court proceeding does not preclude
34 the court from going forth with the proceeding.

35 B. Except as provided in subsection C OF THIS SECTION, a victim's
36 right to be heard may be exercised, at the victim's discretion, through an
37 oral statement, submission of a written statement or submission of a
38 statement through audiotape or videotape OR ANY OTHER VIDEO OR DIGITAL
39 MEDIA THAT IS AVAILABLE TO THE COURT.

40 C. If a person against whom a criminal offense has been committed
41 is in custody for an offense, the person may be heard by submitting a
42 written statement to the court.

1 Sec. 17. Section 22-116, Arizona Revised Statutes, is amended to
2 read:

3 22-116. Funds in possession of justice of the peace; deposit
4 with county treasurer; payment to claimants;
5 disposition of unclaimed funds

6 A. On or before April 1 each year, every justice of the peace whose
7 court is in possession of funds obtained from any source for more than two
8 years shall pay the funds to the county treasurer and shall provide the
9 treasurer with an itemized list showing the name of the person depositing
10 the money with the justice, WHETHER THE MONEY WAS A VICTIM RESTITUTION
11 PAYMENT, the date of the deposit and the amount.

12 B. The treasurer shall deposit the money in an account known as the
13 suspension account, and at any time within one year from deposit of the
14 funds the amount owing any person shall be returned and paid to the person
15 on warrant issued by the board of supervisors. The board of supervisors
16 shall require strict proof that the money should be repaid to the person
17 claiming it, and the warrant, if issued, shall be paid from the suspension
18 fund.

19 C. One year after deposit of the money with the county treasurer,
20 THE COUNTY TREASURER SHALL TRANSFER ALL UNCLAIMED VICTIM RESTITUTION
21 PAYMENT MONIES IN THE SUSPENSION ACCOUNT TO THE STATE TREASURER FOR
22 DEPOSIT IN THE VICTIM COMPENSATION AND ASSISTANCE FUND ESTABLISHED BY
23 SECTION 41-2407 AND DEPOSIT all money remaining in the suspension account
24 for which no claim has been filed ~~shall be deposited~~ in the general fund
25 of the county.

26 Sec. 18. Section 41-2407, Arizona Revised Statutes, is amended to
27 read:

28 41-2407. Victim compensation and assistance fund; subrogation

29 A. The victim compensation and assistance fund is established. The
30 Arizona criminal justice commission shall administer the fund. The victim
31 compensation and assistance fund shall consist of monies collected
32 pursuant to section 12-116.01 and distributed pursuant to section 41-2401,
33 subsection D, paragraph 14, monies collected pursuant to section 31-411,
34 subsection E and sections 13-4311, 31-418, 31-467.06 and 41-1674,
35 unclaimed victim restitution monies pursuant to ~~section~~ SECTIONS 22-116
36 AND 44-313 and monies available from any other source.

37 B. Subject to legislative appropriation, the Arizona criminal
38 justice commission shall allocate monies in the victim compensation and
39 assistance fund to public and private agencies for the purpose of
40 establishing, maintaining and supporting programs that compensate and
41 assist victims of crime.

42 C. The allocation of monies pursuant to this section shall be made
43 in accordance with rules adopted by the Arizona criminal justice
44 commission pursuant to section 41-2405, subsection A, paragraph 8. The
45 rules shall provide that persons who suffered personal injury or death

1 that resulted from an attempt to aid a public safety officer in the
2 prevention of a crime or the apprehension of a criminal may be eligible
3 for compensation.

4 D. This state and the applicable operational unit or qualified
5 program, as defined in the victim compensation program rules, are
6 subrogated to the rights of an individual who receives monies from the
7 victim compensation and assistance fund to recover or receive monies or
8 benefits from a third party, to the extent of the amount of monies the
9 individual receives from the fund.

APPROVED BY THE GOVERNOR MAY 1, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2017.

Passed the House February 21, 2017

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

☐ **Pro Tempore**

Chief Clerk of the House

Passed the Senate March 21, 2017

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

~~This Bill~~ received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of _____

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Bill~~ received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

H.B. 2269

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 20, 2017

by the following vote: 56 Ayes,

0 Nays, 3 Not Voting

1 Vacant

[Signature]
Speaker of the House

☐ Pro Tempore

[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 24, 2017

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

25th day of April, 2017

at 12:09 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 1st day of

May 2017

at 3:32 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 1 day of May, 2017

at 7:03 o'clock P. M.

[Signature]
Secretary of State

H.B. 2269